House Ways and Means Trade Subcommittee Hearing
On
Advancing the U.S. Trade Agenda: Benefits of Expanding U.S. Agriculture Trade and Eliminating Barriers to U.S. Exports

June 24, 2014

Written Comments
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And
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Written Comments for the Record by the National Milk Producers Federation
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to the House Ways and Means Subcommittee on Trade
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The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) appreciate the opportunity to express the views of America's dairy farmers on the benefits of expanding agricultural trade and eliminating barriers to U.S. dairy products. The U.S. dairy industry has become a significant player in the world market, and these markets are playing a greater role in determining prices for dairy products in the United States. As exports have become more important to our industry, so have unfair trade barriers, which is why this hearing was so important and timely.

The National Milk Producers Federation (NMPF) develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's 31 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 40,000 dairy producers on Capitol Hill and with government agencies. The U.S. Dairy Export Council (USDEC) is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, proprietary processors, dairy cooperatives, and export traders. The Council was founded in 1995 by Dairy Management Inc. (DMI), the farmer-funded marketing, promotion and research organization, to build global demand for U.S. dairy products and assist the industry in increasing the volume and value of exports.

Over the past 20 years, trade has taken on an increasingly important role in determining the economic well-being of the U.S. dairy industry. Our nation has gone from exporting less than $1 billion in 1995, a time when a large portion of those sales were government-assisted, to exporting a record $6.7 billion last year, none of which used export subsidies[1][2]. This growth has accelerated in the past 10 years with exports experiencing average annual value growth of 21%[3]. We are now the world's leading single-country exporter of skim milk powder, cheese, whey products and lactose[4].

The U.S. market for dairy products is large, diversified and wealthy, which makes the fact that one day's milking now goes to products for the export market so impressive. As impressive as this is, dairy exports could be even greater if not for foreign trade barriers and unfair regulatory measures. These restrictions affect not only dairy farmers but many others across the U.S. economy, as well.

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[1] Trade Data: Foreign Agricultural Service's Global Agricultural Trade
[2] Subsidies: U.S. Dairy Export Council
[3] Foreign Agricultural Service's Global Agricultural Trade
[4] U.S. Dairy Export Council

The dairy industry plays a critical role in providing and supporting thousands of jobs, a large portion of which are require skilled labor and support this country's manufacturing sector. The U.S. is home to approximately 47,000 dairy farms, spread across all 50 states, These farms are virtually all family owned.[5]

Dairy farm receipts alone contribute approximately $39 billion a year to the U.S. economy[6]. The addition of supporting and downstream sectors, such as dairy processing, combined with farming's economic contributions, account for 1.47 million jobs and over $61 billion in earnings tied to the U.S. dairy industry.[7] These benefits are impressive on their own, but they are particularly important given the fact that they are predominantly concentrated in rural areas.

Exports have accounted for approximately two-thirds of the growth in milk production in the U.S. over the past decade and exports are forecast to continue to grow, with expectations for expansion on a value basis of approximately 40% over the next five years. This means that for farmers to continue to grow and processing companies to continue to likewise expand, overseas markets are critical.

Current Barriers to Dairy Export Growth

Tariffs and Other Border Measures:

As promising as opportunities are in global dairy markets, we do face sizable government constraints around the world. This is a key reason the industry has supported trade negotiations to reduce or eliminates such measures. Many of the world's largest dairy consumers, such as Canada, Japan and the EU, retain high tariffs on dairy products. Canadian dairy tariffs typically range from 250 – 300%, for example[8]. Japan's tariffs on milk powder and butter are similarly astronomical, while their tariffs for cheese and whey products are effective in restricting market opportunities.[9] EU tariffs don't reach these peaks but still typically far exceed U.S. dairy tariffs and constrain access to that market of 500 million dairy-loving consumers.[10]

Tariffs are also a challenge in developing countries, particularly if they have free trade deals with one or more of our competitors and we do not. For example, China, the world's fastest growing market by far, has negotiated an FTA with New Zealand, which provides New Zealand a distinct advantage over us. China's dairy tariffs aren't extremely high[11], but our products are

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[5] Dairy Farming Today; USDA National Agricultural Statistics Service
[6] USDA National Agricultural Statistics Service
[7] Department of Commerce's Bureau of Economic Analysis; National Milk Producers Federation
[8] World Trade Organization notifications
[9] World Trade Organization notifications
[10] World Trade Organization notifications
[11] World Trade Organization notifications

charged a 10 to 15% tariff, while New Zealand's can largely enter freely can put U.S. exporters at a sizable disadvantage.

Canada's dairy tariff system severely limits the ability of U.S. producers to increase exports to Canada above TRQ levels and inflates the prices Canadians pay for dairy products. Under the current system, U.S. imports above quota levels are subject to prohibitively high tariffs (e.g., 245 percent for cheese, 298 percent for butter). We expect TPP to tackle this tremendous constraint on U.S. exports to a market where we are best positioned to service.

Canada also employs other measures to limit the access of U.S. exporters to the Canadian dairy market. For example, Canada recently changed the way in which it applies import duties to certain commercial "food preparations" that contain cheese such that these food preparations are now subject to prohibitively high tariff rates. A few years ago, Canada took similar steps when it introduced compositional standards for cheese in December 2008 that further restricted access of certain U.S. dairy products to the Canadian dairy market. Other regulatory shifts intended to impair access for U.S. dairy exports, such as for ultra-filtered milk sales, are reportedly are under active consideration in Canada as well. There are serious and systemic concerns with Canada's compliance with its existing trade obligations to the U.S.

Geographical Indications:

One of our fastest-growing current challenges in world dairy trade is the EU's abuse of geographical indications (GIs) to erect barriers to the use of many common food names. Names that have been directly targeted by the EU for monopolization include ones such as feta, parmesan, asiago, gorgonzola, fontina, gruyere, munster and others. In addition to these direct attacks on commonly used names, the EU's policies also make unclear what may happen, particularly in third country markets, to other terms that form part of a compound (i.e. more than 1 word) GI such as provolone, emmental, grana, camembert, ricotta, romano, pecorino and others.

At its heart, the problem is the EU's view that names of products that originated in Europe should be able to be effectively reclaimed for use only by products produced in Europe, no matter how wide-spread the commercial use of the name by other nations has become. The EU has banned the use of such names in its own market by any product produced outside a specific named region and has been demanding that other nations adopt such bans in their markets as part of FTAs it negotiates with them.

If successful, the EU's efforts will significantly impair current U.S. cheese exports and will also greatly limit the future global potential for the U.S. industry. The U.S. industry appreciates the attention the Administration has paid to this issue and stresses how critically important it is for the Administration and industry to work together in a very concerted manner to ensure that the customary use of common cheese names can continue in foreign markets. Furthermore, the potential degree of impact would be magnified many times over if the EU were to be successful in its efforts to impose these types of restrictions on the U.S. market itself through the TTIP. This cannot be allowed to happen.

Roughly $21 billion in U.S. cheese production utilizes European-origin names. Over $1 billion in U.S. cheeses were exported last year. Cheese exports are a particular growth opportunity for our industry, registering a six-fold increase over the past 10 years. The extent of the damage to U.S. exports will depend on the degree of EU success in limiting our ability to label these products with names customers know and look for at the market.

Unjustifiable Sanitary Measures:

Various types of nontariff barriers also pose sizable challenges to U.S. exports. Some of these are intentionally obstructive requirements; i.e., where tariffs are insufficient to protect their domestic producers, governments step in with regulatory measures that are often unjustified by science to restrict imports.

A prime example is the *de facto* ban India has placed on U.S. dairy exports. Over a decade ago, India revised its dairy certificate to require unscientifically justified statements that effectively halted imports from the U.S. Despite repeated efforts by U.S. officials to negotiate a good-faith solution with India, India has done nothing but continually move the goal posts farther from a resolution that is WTO compliant.

In Russia, we have also faced a closed market for several years due to unjustified certificate and inspection requirements. This is particularly galling since Russia was admitted to the WTO with strong U.S. backing precisely because it was hoped that Russia would be compelled to bring unfair measure into line with WTO rules. This has not happened in virtually any sector. We applaud the steps forward taken this spring to restore access to this major dairy market, but more work is needed to complete the process to restore access to this market, particularly by FDA and USDA.

The WTO Agreement on Sanitary and Phytosanitary (SPS) Measures is a critically important agreement and it has proven helpful in resolving some disputes, but WTO dispute settlement is relatively slow and cumbersome and, with limited resources, USTR is unable to take on all cases. It is clear that improvements to the SPS agreement are needed to ensure that international SPS commitments keep pace with the evolving nature of international trade.

Since there are no WTO negotiations on the SPS Agreement contemplated, we have looked to including “SPS-Plus” provisions in free trade agreements, particularly the TransPacific Partnership (TPP) negotiations. TPP is a key area for building upon the existing WTO SPS agreement to help ensure that abrupt and unjustified regulatory requirements do not block trade. We have urged that the new obligations to be undertaken as part of a “SPS-Plus” agreement in TPP be enforceable and, therefore, subject to some form of dispute settlement. Such obligations could not be challenged in the WTO and without an enforcement mechanism in the TPP, the obligations would only be hortatory.

We hope to see the TransAtlantic Trade and Investment Partnership (TTIP) also build upon efforts to improve disciplines on SPS measures, particularly given the EU's deeply concerning track record of using such regulations to block trade. We face numerous such nontariff barriers in the EU, largely related to overly onerous and obscure certification requirements. A broad recognition of the safety of the U.S. dairy system, and a commitment to avoid future trade blockages absent a new and clear food safety problem, are needed in order to ensure that TTIP genuinely opens up transatlantic trade. Otherwise, the removal of tariffs will simply leave the SPS and nontariff barrier measures in place to block trade.

Future Trade Initiatives

NMPF strongly supports ongoing TPP and TTIP negotiations. We hope that the final TPP and TTIP packages result in outcomes that will be positive for America's dairy industry. There is clear potential in both agreements if key elements are successfully negotiated.

TPP:

Market Access – The U.S. dairy industry needs to see comprehensive and meaningful dairy market access into Canada and Japan in order to provide sizable new export opportunities for our industry. It is clear, however, that Japan, as well as Canada, continues to strongly resist living up to the ambitious trade goals it obligated itself to undertake upon joining TPP negotiations. The U.S. dairy industry has been a leading and long-standing advocate for comprehensive market access and the inclusion of Japan and Canada in TPP. Yet, we have held realistic expectations and recognize that the perfect should not be the enemy of the good. However, as reported in the media, Japan's recent comments on market access progress show appallingly little substantive movement, and come nowhere close to our expectations.

Canada will likely try to base its decisions on dairy market access off of what Japan commits to do for its most sensitive agricultural sectors, thus heightening the importance of achieving meaningful dairy market access to Japan. We believe that TPP must remain a high standard trade agreement that can be used as a model for future U.S. free trade agreements. All TPP countries must do their part to ensure that this undertaking lives up to its founding goals of comprehensive and meaningful market access. We are prepared to match the level of ambition of those countries. However, our industry must not provide any new access in this agreement that has not been given by Japan and Canada.

Open access to the Vietnamese and Malaysia markets will also offer new sales opportunities. Both are already important markets for U.S. dairy exports and it will be helpful to see U.S. exporters restored to a level playing field with respect to market access compared to their competitors in Oceania that have an FTA already with both countries.

As critical as market access is to a good agreement, tariffs are not the only element of importance in TPP.

- Anti-competitive New Zealand Policies – TPP should address the anti-competitive New Zealand dairy industry structure by lowering the level of market concentration that government policies have granted to a single dairy company. This point was most recently underscored in a letter sent this month by approximately forty U.S. dairy producer and processor companies to the Administration.

- Enforceable WTO and SPS Commitments – As mentioned previously, unscientific and unpredictable sanitary and phytosanitary (SPS) barriers wreak havoc on global ag trade. Strengthened and legally binding SPS disciplines are critical to addressing this.

- Geographical Indications & Generic Names – As also referred to previously, TPP should provide improved safeguards for the use of common food names (e.g. parmesan, feta, romano) to combat aggressive efforts by the EU to monopolize these terms by including Geographical Indications restrictions on these terms via EU FTAs with U.S. trading partners.

TTIP:

Our overarching goals for TTIP are the mutual elimination of tariffs on dairy products in concert with removal of various nontariff barriers to U.S.-EU dairy trade including GI barriers to common names. These issues were covered in earlier sections.

Trade Promotion Authority (TPA):

The dairy industry supports the passage of trade promotion authority for the purpose of facilitating and completing potentially beneficial trade negotiations with other nations. Key elements of a TPA bill of importance to the U.S. dairy industry include:

- Prioritization of tariff reduction for U.S. products that face significantly higher foreign tariffs or subsidy regimes by major producing countries, both of which are global challenges for U.S. dairy exports;

- The pursuit of strong and enforceable rules on sanitary and phytosanitary (SPS) measures;

- Direction urging the Administration to eliminate and prevent the undermining of market access for U.S. products through improper use of geographical indications, and;

- A specific negotiating focus on goods subject to U.S. tariff rate quotas, as is the case for most dairy products.

Thank you for the opportunity to comment on these issues.

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